

_____ ¹

RECORD OF TRIAL ²

(and accompanying papers)

of

(Name: Last, First, Middle Initial)

(Social Security Number)

(Rank)

(Unit/Command Name)

(Branch of Service)

(Station or Ship)

By

_____ **COURT-MARTIAL**

Convened by _____
(Title of Convening Authority)

(Unit/Command of Convening Authority)

Tried at

(Place or Places of Trial)

on

(Date or Dates of Trial)

¹ Insert "verbatim" or "summarized" as appropriate. (This form will be used by the Army and Navy for verbatim records of trial only.)

² See inside back cover for instructions as to preparation and arrangement.

CHRONOLOGY SHEET ¹

In the case of _____
(Rank and Name of Accused)

Date of alleged commission of earliest offense tried: _____ , _____
(Enter Date)

Date record forwarded to The Judge Advocate General: ² _____ , _____
(Enter Date)

(Signature and Rank of Staff Judge Advocate or Legal Officer)

¹ In a case forwarded to The Judge Advocate General, the staff judge advocate or legal officer is responsible for completion of the Chronology Sheet. Trial counsel should report any authorized deductions and reasons for unusual delay in the trial of the case.

² Or officer conducting review under Article 64(a) (MCM, 1984, RCM 1112).

³ In computing days between two dates, disregard first day and count last day. The actual number of days in each month will be counted.

⁴ Item 1 is not applicable when accused is not restrained, (see MCM, 1984, RCM 304) or when he/she is in confinement under a sentence or court-martial at time charges are preferred. Item 2 will be the zero date if Item 1 is not applicable.

⁵ May not be applicable to trial by special court-martial.

⁶ Only this item may be deducted.

⁷ If no further action is required, items 1 to 8 will be completed and chronology signed by such convening authority or his/her representative.

⁸ When further action is required under Article 64 or service directives.

ACTION		DATE _____	CUMULATIVE ELAPSED DAYS ³
1. Accused placed under restraint by military authority ⁴			
2. Charges preferred <i>(date of affidavit)</i>			
3. Article 32 investigation <i>(date of report)</i> ⁵			
4. Charges received by convening authority			
5. Charges referred for trial			
6. Sentence or acquittal			
Less days:			
Accused sick, in hospital, or AWOL			
Delay at request of defense			
Total authorized deduction ⁶			
7. Net elapsed days to sentence or acquittal			
8. Record received by convening authority			
Action ⁷			
9. Record received by officer conducting review under Article 64(a)			
Action ⁸			

REMARKS

RECORD OF TRIAL

of

(Name: Last, First, Middle Initial)

(Social Security Number)

(Rank)

(Unit/Command Name)

(Branch of Service)

(Station or Ship)

By

COURT-MARTIAL

Convened by

(Title of Convening Authority)

(Unit/Command of Convening Authority)

Tried at

(Place or Places of Trial)

on

(Date or Dates of Trial)

INDEX	RECORD
Article 39(a) Sessions:	
On	R-
On	R-
On	R-
On	R-
Introduction of counsel	R-
Challenges	R-
Arraignment	R-
Motions	R-
Pleas	R-
Prosecution evidence	R-
Defense evidence	R-
Instructions on findings	R-
Findings	R-
Prosecution evidence	R-
Defense evidence	R-
Sentence	R-
Appellate rights advisement	R-
Proceedings in revision	R-

TESTIMONY

NAME OF WITNESS <i>(Last, First, Middle Initial)</i>	DIRECT AND INDIRECT	CROSS AND RECROSS	COURT
PROSECUTION			
DEFENSE			
COURT			

EXHIBITS ADMITTED IN EVIDENCE

NUMBER OR LETTER	DESCRIPTION	PAGE WHERE -	
		OFFERED	ADMITTED

COPIES OF RECORD ¹

_____ copy of record furnished the accused or defense counsel as per attached certificate or receipt.

_____ copy(ies) of record forwarded herewith.

RECEIPT FOR COPY OF RECORD ²

I hereby acknowledge receipt of a copy of the record of trial in the case of United States v. _____,

delivered to me at _____ this _____ of _____,

(Signature of accused)

I hereby acknowledge receipt of a copy of the record of trial in the case of United States v. _____,

delivered to me at _____ this _____ of _____,

(Signature of accused)

¹ For instructions as to preparation of copies of record, see back cover or appendices 13 and 14, MCM, 1984.

² If copy of record prepared for accused contains matters requiring security protection, see RCM 1104(b)(1)(D), MCM, 1984.

CERTIFICATE IN LIEU OF RECEIPT

(Place)

(Date)

I certify that on this date a copy of the record of trial in the case of United States v. _____

was transmitted (delivered) to the accused, _____,
(Rank and Name of accused)

at _____, by _____,
(Place of delivery, or address sent to) (Means of effecting delivery, i.e., mail, messenger, etc.)

and that the receipt of the accused had not been received on the date this record was forwarded to the convening authority. The receipt of the accused will be forwarded as soon as it is received.

(Signature of trial counsel)

OR

(Place)

(Date)

I certify that on this date a copy of the record of trial in the case of United States v. _____

was transmitted (delivered) to the accused's defense counsel, _____,
(Rank and Name)

at _____, by _____,
(Place of delivery, or address sent to) (Means of effecting delivery, i.e., mail, messenger, etc.)

because (it was impracticable to serve the record of trial on the accused because he/she was transferred to

_____) (the accused requested such at trial) (the accused so
(Place)
requested in writing, which is attached) (the accused is absent without leave) (_____).
(Other reason)

(Signature of trial counsel)

OR

The accused was not served personally because (he/she is absent without leave) (_____).
(Other reason)

Accused has no defense counsel to receive the record because (defense counsel has been excused under
RCM 505(d)(2)(B)) (_____).
(Other reason)

(Date)

(Signature of trial counsel)

PROCEEDINGS OF A _____ COURT-MARTIAL

The military judge called the Article 39(a) session to order.

The court met (at) (on board) ¹

at _____ hours, _____ , _____ , pursuant to the following orders. ²

¹ Delete inapplicable language.

² Insert a copy of the convening orders and copies of any amending orders. Any request of an enlisted accused for enlisted court members will be inserted immediately following the convening orders, together with any declaration of the non-availability of such enlisted persons. Any written request for trial by the military judge alone (RCM 903(b)) or, in a special court-martial, any statement that qualified defense counsel (Article 27(c)) or military judge (RCM 201(f)(2)) could not be obtained, will also be inserted at this point.

ACCUSER			
a. NAME <i>(Last, First, Middle Initial)</i>	b. RANK	c. UNIT/COMMAND NAME	d. SIGNATURE <i>/S/</i>

AFFIDAVIT ¹

Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above-named accuser this _____ day of _____, _____, and signed the foregoing charges and specifications and attested under oath that he/she is a person subject to the Uniform Code of Military Justice, that he/she either has personal knowledge of or has investigated the matters set forth therein, and that the same are true in fact, to the best of his/her knowledge and belief.

OFFICER ADMINISTERING OATH			
a. TYPED NAME <i>(Last, First, Middle Initial)</i>	b. RANK ²	c. SIGNATURE <i>/S/</i>	
d. UNIT/COMMAND NAME		e. OFFICIAL TITLE	

REFERRAL

_____ *(Designation of unit/command of convening authority)* _____ *(Place)* _____ *(Date)*

Referred for trial to the _____ court-martial convened by _____

_____, _____, _____, subject to the following instructions: _____

By _____ of _____
(Command or order)

CONVENING AUTHORITY OR PERSON SIGNING THEREFOR			
a. TYPED NAME <i>(Last, First, Middle Initial)</i>	b. RANK	c. SIGNATURE <i>/S/</i>	
d. UNIT/COMMAND NAME		e. OFFICIAL TITLE	

¹ When a verbatim record is prepared, this page will follow the charges and specifications, which are copied verbatim into the record at the point indicated in the sidenote. "Arraignment," Appendix 14, MCM, 1984. In the alternative, the original charge sheet (DD Form 458) may be inserted. The entries on this page will be copied from the charge sheet. No signatures will be made on the page, but the names of the persons signing the charge sheet will be entered in the signature blocks.

² Person administering oath must be a commissioned officer. (MCM, 1984, RCM 307(a))

The following named accused (was) (were) present: ¹

¹ This notation should be made by the reporter, unless trial counsel announces that each named accused is present in court; in the latter event, this page need not be used.

After the reporter is sworn or trial counsel announces that the reporter had previously been sworn, the record will reflect such fact, as follows:

"The detailed reporter, _____, (was sworn) (had previously been sworn)."

When a verbatim record is prepared, the reporter records the proceedings verbatim, subject to the instructions set forth in MCM, 1984, Appendix 14. Those appendices should be followed as to notations to be made in the record and facts to be recorded by the reporter, as well as matters which need not be recorded verbatim (such as the administration of oaths and warning to a witness upon his/her being excused from the stand). No separate listing of the persons present and absent need be made as shown in the appendices, however, since trial counsel's announcement of such matters will be recorded verbatim.

When a summarized record is authorized under MCM, 1984, RCM 1103(b) and (c), the form and content of the record will be as indicated in MCM, 1984, Appendix 13, or departmental instructions. Air Force see AFR 111-1; Navy and Army use DD Form 491.

AUTHENTICATION OF RECORD OF TRIAL

in the case of

(Military Judge) ¹

_____, _____

I have examined the record of trial in the foregoing case.

(Defense Counsel)

_____, _____

¹ Delete and insert "President" for special court-martial without a military judge.

INSTRUCTIONS FOR PREPARING AND ARRANGING RECORD OF TRIAL

USE OF FORM - Use this form and MCM, 1984, Appendix 14, will be used by the trial counsel and the reporter as a guide to the preparation of the record of trial in general and special court-martial cases in which a verbatim record is prepared. Air Force uses this form and departmental instructions as a guide to the preparation of the record of trial in general and special court-martial cases in which a summarized record is authorized.

Army and Navy use DD Form 491 for records of trial in general and special court-martial cases in which a summarized record is authorized. Inapplicable words of the printed text will be deleted.

COPIES - See MCM, 1984, RCM 1103(g). The convening authority may direct the preparation of additional copies.

ARRANGEMENT - When forwarded to the appropriate Judge Advocate General or for judge advocate review pursuant to Article 64(a), the record will be arranged and bound with allied papers in the sequence indicated below. Trial counsel is responsible for arranging the record as indicated, except that items 6, 7, and 15e will be inserted by the convening or reviewing authority, as appropriate, and items 10 and 14 will be inserted by either trial counsel or the convening or reviewing authority, whichever has custody of them.

1. Front cover and inside front cover (chronology sheet) of DD Form 490.

2. Judge advocate's review pursuant to Article 64(a), if any.

3. Request of accused for appellate defense counsel, or waiver/withdrawal of appellate rights, if applicable.

4. Briefs of counsel submitted after trial, if any (Article 38(c)).

5. DD Form 494, "Court-Martial Data Sheet."

6. Court-martial orders promulgating the result of trial as to each accused, in 10 copies when the record is verbatim and in 4 copies when it is summarized.

7. When required, signed recommendation of staff judge advocate or legal officer, in duplicate, together with all clemency papers, including clemency recommendations by court members.

8. Matters submitted by the accused pursuant to Article 60 (MCM, 1984, RCM 1105).

9. DD Form 458, "Charge Sheet" (unless included at the point of arraignment in the record).

10. Congressional inquiries and replies, if any.

11. DD Form 457, "Investigating Officer's Report," pursuant to Article 32, if such investigation was conducted, followed by any other papers which accompanied the charges when referred for trial, unless included in the record of trial proper.

12. Advice of staff judge advocate or legal officer, when prepared pursuant to Article 34 or otherwise.

13. Requests by counsel and action of the convening authority taken thereon (e.g., requests concerning delay, witnesses and depositions).

14. Records of former trials.

15. Record of trial in the following order:

a. Errata sheet, if any.

b. Index sheet with reverse side containing receipt of accused or defense counsel for copy of record or certificate in lieu of receipt.

c. Record of proceedings in court, including Article 39(a) sessions, if any.

d. Authentication sheet, followed by certificate of correction, if any.

e. Action of convening authority and, if appropriate, action of officer exercising general court-martial jurisdiction.

f. Exhibits admitted in evidence.

g. Exhibits not received in evidence. The page of the record of trial where each exhibit was offered and rejected will be noted on the front of each exhibit.

h. Appellate exhibits, such as proposed instructions, written offers of proof or preliminary evidence (real or documentary), and briefs of counsel submitted at trial.